



1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
McLEAN, VA 22102
PHONE 703.905.2800
FAX 703.905.2820

www.wileyrein.com

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July 3, 2013

Michael E. Toner
202.719.7545
mtoner@wileyrein.com

BY HAND DELIVERY

Jeff S. Jordan, Esq.
Supervising Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6734 (L. Scott Frantz)

Dear Mr. Jordan:

This office represents L. Scott Frantz ("Mr. Frantz") in the above-captioned Matter Under Review ("MUR"). We have received the complaint filed on May 8, 2013, by Citizens for Responsibility and Ethics in Washington, Melanie Sloan, the Campaign Legal Center, and Paul S. Ryan ("Complaint"). The Complaint alleges that Mr. Frantz exceeded the individual biennial contribution limits contained in the Federal Election Campaign Act of 1971, as amended ("FECA" or "Act"), and Federal Election Commission ("Commission" or "FEC") regulations during the 2011-2012 election cycle.

Given that (1) Mr. Frantz is currently complying with the biennial contribution limits that applied during the 2011-2012 election cycle, (2) Mr. Frantz took corrective action to adhere to the applicable limits, and (3) there is significant uncertainty concerning the constitutionality of the biennial individual contribution limits, the Commission should dismiss the complaint with respect to Mr. Frantz based upon prosecutorial discretion pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985). At the very least, the Commission should not take any further action in this matter until the U.S. Supreme Court has issued its opinion in *McCutcheon, et al. v. Fed. Election Comm'n*, 2012 WL 4466482 (D.D.C. Sept. 28, 2012), *appeal docketed*, No. 12-536 (U.S. Oct. 26, 2012).

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THE COMPLAINT

The Complaint alleges that Mr. Frantz made contributions to federal campaign committees totaling \$47,400 during the 2011-2012 election cycle. Complaint at 6-7. The Complaint further alleges that these contributions exceeded the \$46,200 biennial limit on contributions to federal campaign committees for the 2011-2012 election cycle. *Id.* Exhibit A of the Complaint also alleges that Mr. Frantz exceeded the 2011-2012 biennial limit on all contributions to federal political committees as well as the 2011-2012 biennial limit on contributions to PACs and political party committees. Exhibit A to Complaint at 5.

FACTUAL BACKGROUND

Mr. Frantz resides in Connecticut and is a Connecticut state senator. Mr. Frantz has actively supported a number of federal and nonfederal candidates and committees over the years.

Exhibit 1 attached hereto identifies the federal contributions that Mr. Frantz made during the 2011-2012 election cycle. These contributions are broken down by contributions to campaign committees in Exhibit 2 and by contributions to political action committees ("PACs") and political party committees in Exhibit 3.¹

Mr. Frantz inadvertently exceeded the 2011-2012 election cycle total biennial contribution limit by \$53,600 as is detailed in Exhibit 1. Mr. Frantz also inadvertently exceeded the biennial limit on contributions to campaign committees by \$6,200 and the biennial limit on contributions to PACs and party committees by \$47,400. *See* Exhibits 2 and 3.

Since Mr. Frantz became aware that he made contributions in excess of the biennial contribution limits, he has taken proactive action and requested and received refunds of five contributions totaling \$53,600; Mr. Frantz's refunded contributions are detailed in Exhibit 4 attached hereto. As a result of obtaining these refunds, Mr.

¹ In addition to the contributions identified in the Exhibits, Mr. Frantz also made three contributions to a Super PAC (Restore our Future) and one recount contribution (to Allen West for Congress, which was Rep. Allen West's campaign committee). Since these contributions do not count against the individual biennial aggregate limits, they have not been included in the Exhibits.

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Frantz is currently complying with all of the applicable biennial contribution limits for the 2011-2012 election cycle.

It is important to note that Mr. Frantz's contributions were within all applicable biennial contribution limits at all times during the 2011 calendar year. In addition, Mr. Frantz only exceeded the biennial limit on contributions to candidates in mid-October of 2012, in the final weeks of the election season.

THE LAW

FECA and Commission regulations limit individual contributions to federal political committees for each election cycle. The Act and FEC regulations also limit the total amount that individuals may contribute to candidates during each election cycle and the total amount that individuals may contribute to federal political party committees and federal political action committees during each election cycle. See 2 U.S.C. § 441a(a)(3) and 11 C.F.R. § 110.5. For the 2011-2012 election cycle, total individual contributions were limited to \$117,000, whereas contributions to federal candidates were limited to \$46,200 and contributions to federal PACs and political party committees were limited to \$70,800.

DISCUSSION

I. The Commission Should Dismiss the Complaint Because Mr. Frantz is Complying with the Applicable Biennial Contribution Limits and He Took Proactive Action in this Matter.

Mr. Frantz is currently fully compliant with all the individual biennial contribution limits for the 2011-2012 election cycle. As was detailed above, Mr. Frantz took affirmative steps to adhere to the law by seeking and obtaining refunds of several contributions totaling \$53,600. As a result of Mr. Frantz's proactive actions, Mr. Frantz today is fully complying with all applicable biennial contribution limits for the 2011-2012 election cycle.

Moreover, the violations at issue are of a highly technical nature and were inadvertent. In addition, the violations in question existed only for a relatively short period of time.

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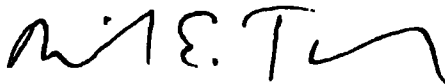
II. The Commission Should Dismiss the Complaint Given the Uncertainty of the Constitutionality of the Biennial Contribution Limits.

As was noted above, there is significant doubt as to whether the individual biennial aggregate contribution limits are constitutionally permissible. The Supreme Court is currently considering a challenge to these limits in *McCutcheon* and a decision is expected during the Court's 2013-2014 term. In light of the foregoing, the Commission should exercise prosecutorial discretion and dismiss this matter. At the very least, the Commission should defer taking any further action in this matter until a decision in *McCutcheon* is issued. If the Court determines in *McCutcheon* that the biennial contribution limits are unconstitutional, the Commission will have no basis to find a violation in this matter.

CONCLUSION

For all the foregoing reasons, the Commission should dismiss the Complaint against Mr. Frantz based upon prosecutorial discretion and should close the file concerning Mr. Frantz.

Respectfully Submitted,



Michael E. Toner